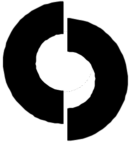

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Corporate Decision #98-40
September 1998

August 18, 1998

Mr. Michael E. Bleier
General Counsel
Mellon Bank, N.A.
One Mellon Bank Center
Pittsburgh, Pennsylvania 15258-0001

Re: Application by Mellon Bank, N.A., Pittsburgh, Pennsylvania, to expand the activities of its mortgage reinsurance operating subsidiary to include reinsuring mortgage insurance on serviced mortgage loans
Application Control Number: 98-NE-08-0025

Dear Mr. Bleier:

This responds to the application filed by Mellon Bank, N.A., Pittsburgh, Pennsylvania (the "Bank"), to expand the activities of its mortgage reinsurance operating subsidiary (the "Subsidiary") to include reinsuring a portion of the mortgage insurance on loans serviced by the Bank or the Bank's lending affiliates. The OCC previously approved the Bank's application to establish the Subsidiary to reinsure a portion of the mortgage insurance on loans originated or purchased by the Bank or the Bank's lending affiliates.[1] Based upon the representations and commitments made by the Bank in writing and in subsequent telephone discussions, as described herein, the Bank's proposed expanded activities for the Subsidiary are approved.

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[1] *See* Corporate Decision No. 98-10 (January 28, 1998).

BACKGROUND

A. Mortgage Insurance Generally

Mortgage insurance protects an investor holding a mortgage loan against default by the mortgagor. Banks and mortgage lenders generally require that borrowers obtain mortgage insurance from third-party mortgage insurers on low down payment loans.[2]

Mortgage insurance has played a vital role in helping low and moderate-income families become homeowners by allowing families to buy homes with less cash. Mortgage insurance also has expanded the secondary market for low down payment mortgages and the funding available for these loans. Government sponsored enterprises such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and most other purchasers in the secondary market, typically will not consider purchasing low down payment conventional loans unless the loans have mortgage insurance. Secondary market purchases of low down payment loans with mortgage insurance helped fuel the expansion in home construction and sales during the 1970s and 1980s, aiding many first-time and other home buyers.[3]

B. Loan Servicing Generally

When the Bank services loans, the Bank collects payments of principal and interest, as well as tax, insurance and other escrow payments and forwards them to the investors, insurers, and taxing authorities. The Bank is paid a fee for this service. Typically, the Bank is required to remit payments to the owners of the loans it is servicing (such owners are usually referred to as "investors"), even if loan payments are not received by the Bank. This requirement to remit payments to investors regardless of the actual payment practices of the individual borrowers normally terminates when a loan is removed from the servicing pool upon commencement of foreclosure.

When a delinquent loan is removed from a servicing portfolio, the investor reimburses the Bank for the amount of funds advanced by the Bank for delinquent payments. However, the Bank still incurs additional costs when a borrower defaults because it must advance payments without collecting from the borrower for a period of time, and must attempt to collect the delinquent loan and write-off the servicing asset. These costs arise from a borrower's default on a loan and thus involve credit-related risk. The Bank evaluates the likelihood of incurring

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[2] For purposes of this letter, "low down payment loans" are those loans with down payments of less than 20 percent of the property's value, or loans with loan-to-value ratios in excess of 80 percent.

[3] *See* Mortgage Insurance Companies of America 1995-1996 Fact Book.

this cost as a critical element in deciding whether to purchase servicing rights and in pricing this service. In order to make this evaluation, the Bank reviews the credit risk associated with these loans. The Bank represents that when the Bank or its affiliate acquires loan servicing rights, the Bank or its affiliate attempts to measure this credit risk by applying to a portion of the portfolio of the loans being acquired the same underwriting procedures the Bank uses when it underwrites a loan portfolio or purchases a participation interest in a portfolio of third party loans.[4] This process, which is sometimes referred to as "re-underwriting," includes a due diligence effort for that portion of the portfolio, on an individual loan basis, that is identical to that employed when the Bank or its affiliate originates or purchases a loan, and is intended to assess the default risk of the serviced loan.[5] Consequently, before acquiring the rights to service a loan portfolio, the Bank engages in a credit review, using its lending expertise, similar to credit reviews involved in other lending activities. As a servicer of mortgage loans, the Bank also assumes credit-related risks arising from borrower defaults.

C. The Proposed Reinsurance Activities

1. The Reinsurance Relationship Generally

Under the Bank's proposal, the Subsidiary will enter into reinsurance agreements[6] with a number of unaffiliated insurance carriers that issue mortgage insurance on mortgage loans serviced by the Bank or its affiliates. Under the Bank's proposal, therefore, the Subsidiary is agreeing to accept from a mortgage insurer a portion of the risk of default associated with certain mortgage loans that are serviced by the Bank or the Bank's affiliates. In return for accepting risk of default, the Subsidiary will receive a share of premiums paid under reinsurance agreements between the Subsidiary and one or more primary mortgage insurers (each an "Insurer").[7]

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[4] The Bank represents that, typically, at least a statistically valid sample of the loans in a portfolio will be reviewed during the due diligence phase prior to the decision to acquire the servicing rights.

[5] The Bank and its affiliates have acquired more than $25 billion in servicing rights utilizing this process, which is a standard practice in the acquisition of loan servicing within the mortgage banking industry.

[6] Reinsurance is a process whereby an original insurer reduces its underwriting risk by passing all or part of this risk on to another insurance company. The first underwriter may retain only a portion of the risk and reinsure the balance with a second company that then owns the cash flow and assumes that portion of the risk. *See* 13A John Alan Appleman & Jean Appleman, Insurance Law and Practice § 7681 (1976).

[7] Specifically, under the Bank's reinsurance proposal, the Subsidiary's reinsurance obligations will take the form of an "excess loss" arrangement. The Bank represents that the

2. Terms of the Reinsurance Agreements

Under the reinsurance agreements, the Subsidiary will become liable[8] to the extent provided in the reinsurance agreement to the Insurer when a loan insured by an Insurer goes into default (i.e., the borrower does not make a scheduled payment of principal or interest by the stated due date or within the stated grace period). The Bank represents that under the terms of the reinsurance agreements between the Subsidiary and the Insurers, the Subsidiary's maximum contractual exposure will be limited to an exact percentage of the mortgage insurance risk on each loan or on a pool of loans. Additionally, the Bank represents that its potential liability for the Subsidiary's reinsurance obligation will not exceed the Bank's investment in the Subsidiary. The Subsidiary will not underwrite insurance as a primary insurer.[9]

3. Capitalization and Reserve Requirements

The capitalization of the Subsidiary is subject to both initial and ongoing requirements, which may vary depending on its size and expected book of business, and other factors. The Subsidiary will maintain a statutory contingency reserve as required by state insurance authorities. This reserve is essentially a "reservation of capital" that restricts dividend payments. The Bank represents that in most states, the contingency reserve is accumulated by retaining 50 percent of earned premiums each year.[10] In most states, the Subsidiary may make

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Subsidiary typically will acquire approximately a 3% reinsurance layer on serviced loans. Under an "excess loss" arrangement, the primary insurer pays, and is solely responsible for, claims arising out of a given book of business up to a predetermined amount, after which the reinsurer is obligated to reimburse the primary insurer's claims up to another predetermined amount. Thereafter, the primary insurer is solely responsible for claims in excess of the reinsurer's tier of losses on a given book. In the event the Subsidiary desires to enter into a "quota share" arrangement the Bank will provide prior notice to the OCC. If the Bank proposes to enter into such arrangements involving a risk portion of greater than 50%, the Bank will request the prior approval of the OCC.

[8] Neither Mellon Bank Corporation nor any of its subsidiaries, including the Bank, will guarantee the activities or obligations of the Subsidiary or provide the Subsidiary with any other credit enhancement. The Bank's total exposure to the mortgage reinsurance activities will be limited, therefore, to the amount of its capital investment. The Bank will insure that the mortgage insurance companies with which the Bank or the Subsidiary may negotiate are advised that none of these credit enhancements will be provided.

[9] The Subsidiary will not reinsure its risk obligations through offshore reinsurers.

[10] All investments made by the Subsidiary will be limited to those investments which are permissible for national banks.

withdrawals from the contingency reserves to the extent that losses exceed 35 percent of earned premiums in any year.

Also, the OCC requires that national banks hold capital commensurate with the level and nature of all the risks of their business, including the operation of operating subsidiaries. If the OCC determines that the Bank's capital levels do not adequately protect the Bank from any risks of the reinsurance business of its Subsidiary, the OCC may use its authority under 12 C.F.R. Part 3 to require the Bank to maintain additional capital.[11] The Bank has made a commitment to evaluate the risks presented by the Subsidiary's reinsurance activities and to maintain appropriate levels of capital for the Bank and the Subsidiary. The Bank represents that it will have in place management information systems that will enable the Bank, and the OCC as part of its supervision of the Bank, to monitor, on a quarterly basis, the amount of the Bank's risk-based capital and the amount of reinsurance risk in force at the Subsidiary to verify that the level of Bank capital is sufficient to support the risk. Moreover, the Bank represents that the Subsidiary has made a commitment to establish and maintain adequate contingency and specific case basis reserves as required under the reinsurance agreements.

The Bank also represents that under standard insurance accounting practices and the applicable reinsurance agreements, the reinsurer or the primary insurer is required to establish the following types of reserves for reinsurance risks: an unearned premium ("UEP") reserve, a loss reserve, and an incurred but not reported ("IBNR") loss reserve. The UEP reserve represents the unearned portion of premiums assumed. The loss reserve represents estimated future loss payments for loans that are delinquent but for which an insurance claim has not yet been perfected and paid. The IBNR loss reserve is a liability for future estimated losses and loss adjustment expenses for loans which are delinquent, but not yet reported as such to the primary mortgage insurer.

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[11] Section 3.10 specifically authorizes the OCC to require higher capital ratios for an individual bank in view of its circumstances. For example, higher capital ratios may be required for "a bank with significant exposure due to the risks from concentrations of credit, certain risks arising from nontraditional activities, or management's overall inability to monitor and control financial and operating risks presented by concentrations of credit and nontraditional activities." 12 C.F.R. 3.10(d).

4. Consumer Provisions

The Bank represents that the Bank and its affiliates will disclose to obligors on residential mortgage loans that are being serviced by the Bank or its affiliates that the Subsidiary will reinsure a portion of the mortgage insurance issued in connection with the loan and, in return for assuming such risk, the Subsidiary may receive a portion of the insurance premium.[12] The disclosures also will explain that the reinsurance arrangement does not affect the costs of such insurance to the borrower. The Bank further represents that, for those borrowers whose loans have mortgage insurance coverage, it will allow those borrowers the choice to prohibit the Subsidiary from entering into a reinsurance arrangement with the Insurer on their loans.[13]

5. Safety and Soundness Considerations

The Bank's proposal includes safeguards to limit its mortgage reinsurance risk. The Subsidiary is a state-chartered, state-regulated monoline company (that is, its business will be restricted to the reinsurance of mortgage insurance) and will reinsure mortgage insurance only on loans originated, purchased, or serviced by the Bank or one of its affiliates. The Subsidiary will not reinsure other mortgage loans. The reinsurance risks assumed on serviced loans will be comparable to those assumed under existing reinsurance arrangements of the Subsidiary. The reinsurance arrangements between the Subsidiary and the Insurer will be identical for serviced loans and loans held by the Bank or its affiliates.

The Subsidiary also will not underwrite mortgage insurance as a primary insurer. Specifically, the Bank has noted that: (1) a primary insurer operating under applicable state laws underwrites the mortgage insurance that will be reinsured by the Subsidiary; (2) the primary insurer sets premium rates and administers the claim settlement process; (3) the lender's insurance contract is solely with the primary insurer, not the Subsidiary; (4) the primary insurer is solely responsible for all loss, except a predetermined range of loss; and (5) the primary insurer must pay the entire portion of claims and then seek reimbursement from the Subsidiary for the reinsured portion.

The Subsidiary is a bona fide subsidiary, managed and operated by its own employees or employees who are dual or leased employees of other Bank affiliates. Officers and directors of the Subsidiary may also be officers and directors of Mellon Bank Corporation or its

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[12] The Bank also represents that the Subsidiary does not pay any commission, fee, remuneration, or other compensation to an insured lender in connection with the placement of mortgage insurance.

[13] A meaningful choice would provide the consumer an easy, non-burdensome opportunity to opt out by, for example, indicating a preference one way or the other on a form.

subsidiaries. When acting in their official capacities for the Subsidiary, however, these employees, officers and directors act solely on behalf of the Subsidiary and are subject to all applicable fiduciary duties owed to the Subsidiary corporation.[14]

The Subsidiary is also subject to regulation and oversight by regulatory authorities. As a state-chartered reinsurer, the Subsidiary is subject to regulation by the state insurance authorities and state law requirements including licensing, capital, and reserve requirements. The Bank has represented that the Subsidiary is chartered in Vermont. The Bank also represents that under the reinsurance agreements between the Subsidiary and the mortgage insurers, the Subsidiary has agreed to comply with the reinsurance regulatory requirements of the mortgage insurer's state of domicile.[15]

In return for accepting the limited credit risk associated with the proposed reinsurance arrangement, the Subsidiary will receive insurance premiums, as well as investment income from its cash flow, providing a potentially important source of revenue for the Bank and the Subsidiary.

ANALYSIS

A. Statutory Framework

The National Bank Act provides that national banks shall have the power:

> [t]o exercise . . . all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes . . . .

12 U.S.C. § 24(Seventh).

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[14] The Subsidiary will maintain separate books and records and hold itself out to the public as a separate corporate entity, and will be regulated under state insurance laws as a separate corporation.

[15] The Bank is also aware of the applicability of certain provisions under the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. §§ 2601-2617 (1997), and has represented that the Subsidiary's activities will be conducted in compliance with applicable provisions of RESPA.

The Supreme Court has held that this powers clause is a broad grant of the power to engage in the business of banking, including the five specifically recited powers and the business of banking as a whole.[16] Many activities that are not included in the enumerated powers are also part of the business of banking. Judicial cases reflect three general principles used to determine whether an activity is within the scope of the "business of banking": (1) is the activity functionally equivalent to or a logical outgrowth of a recognized banking activity; (2) would the activity respond to customer needs or otherwise benefit the bank or its customers; and (3) does the activity involve risks similar in nature to those already assumed by banks.[17] Further, as the Supreme Court established in the *VALIC* decision, national banks are also authorized to engage in an activity if that activity is incidental to the performance of the five specified powers in 12 U.S.C. § 24(Seventh) <u>or</u> incidental to the performance of an activity that is part of the business of banking.

B. "Business of Banking" Analysis

1. Functionally Equivalent to or a Logical Outgrowth of Recognized Banking Functions

The OCC previously has determined that reinsuring a portion of the mortgage insurance on loans originated or purchased by the parent bank of an operating subsidiary, or by the parent bank's lending affiliates, is generally permissible under the National Bank Act, because this activity is part of, or incidental to, the business of banking.[18] The OCC concluded that this

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[16] *See NationsBank of North Carolina, N.A. v. Variable Annuity Life Insurance Co.*, 513 U.S. 251 (1995) ("*VALIC*").

[17] *See, e.g.*, *Merchants' Bank v. State Bank*, 77 U.S. 604 (1871); *M & M Leasing Corp. v. Seattle First National Bank*, 563 F.2d 1377, 1382 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978); *American Insurance Association v. Clarke*, 865 F.2d 278, 282 (2d Cir. 1988).

[18] *See, e.g.*, Corporate Decisions No. 98-22 (April 22, 1998); No. 98-15 (February 19, 1998); and No. 98-10 (January 28, 1998) (collectively, the "Mortgage Reinsurance Approval Letters"); and Interpretive Letter No. 743, *reprinted in* [1996-1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶81-108 (October 17, 1996) ("IL 743"). We note, moreover, that national banks have long been recognized to have broad authority to reinsure credit-related insurance products. *See* Corporate Decision No. 97-92 (November 1997) (authorizing reinsurance of credit-related disability and involuntary unemployment insurance); Interpretive Letter No. 277, *reprinted in* [1983-1984 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,441 (December 13, 1983) (authorizing reinsurance of credit-related life insurance); Letter dated March 31, 1995 (unpublished) (authorizing reinsurance of credit-related involuntary unemployment, life, and disability insurance).

reinsurance activity is part of the business of banking because it is comparable to an extension of low down payment mortgage loans without mortgage insurance, but with a higher interest rate to cover the risk of repayment. The reinsurance activities also were found to be functionally equivalent to a partial repurchase of a national bank's own loans, a traditional banking activity. The OCC concluded that the reinsurance activities benefited national banks by providing flexibility in acquiring credit risks and obtaining new sources of credit-related income. Banks involvement in reinsurance may also benefit customers by increasing competition and promoting the availability of mortgage insurance at competitive rates. Finally, the OCC concluded that reinsurance involves credit judgments and the assumption of credit risks comparable to other lending activities. The OCC thus concluded that the reinsurance activities are part of the business of banking. Alternatively, the OCC concluded that mortgage reinsurance would be permissible as an activity incidental to banking, particularly to a national bank's express power to make loans, because it optimized the use of the bank's credit underwriting capacities.[19]

The Bank's reinsurance, through its Subsidiary, of mortgage insurance on serviced loans, also is part of the business of banking, because the Bank's proposed reinsurance activity is functionally equivalent to, or a logical outgrowth of, the Bank's mortgage banking business. Before becoming a loan servicer, and negotiating the terms and conditions of this arrangement, the Bank conducts a credit review of the insured mortgage loan portfolio that is similar to the credit review employed when purchasing participation interests in a portfolio of mortgage loans. Using its lending expertise, the Bank evaluates the credit risks involved in the portfolio in determining appropriate charges for its servicing activities. When the Bank agrees to become a servicer, it assumes credit risks that a borrower will default and must manage those risks when foreclosures occur. Thus, the proposed reinsurance of serviced loans is functionally equivalent to purchases of a loan participation in the serviced loans. These reinsurance activities permit the Bank to acquire credit risks and new sources of credit related income. Reinsuring mortgage insurance on loans that the Bank and its lending affiliates service involves credit judgments and the assumption of credit risks similar to reinsuring loans the Bank and its affiliates originate or purchase.

2. Respond to Customer Needs or Otherwise Benefit the Bank or Its Customers

The Bank's proposal potentially benefits the Bank and borrowers. Borrowers benefit from mortgage insurance because it enables them to make small down payments on the purchases of their homes. They have the option of paying the higher monthly costs associated with low down payments, or paying a larger down payment. The Bank's involvement in mortgage reinsurance should not diminish borrowers' ability to obtain optional mortgage insurance, and

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[19] *See* the Mortgage Reinsurance Approval Letters and IL 743.

may even increase competition and promote the availability of mortgage insurance at competitive rates.

The Bank's proposal also benefits the Bank because it provides the Bank flexibility in structuring its activities to obtain new sources of credit-related business and income. Not only will the Bank be able to engage in credit activity by originating or acquiring loans and loan participations, but it will also be able to reinsure loans it originated or acquired as well as loans it services for others. This will provide the Bank an alternative vehicle for managing its mortgage-related risk exposure and achieving risk objectives. In addition, as described below, the Bank's proposal will enable the Bank to use its existing credit staff and credit expertise to generate additional revenues.

3. Risks Similar in Nature to Those Already Assumed by National Banks

National banks are already authorized to reinsure credit-related insurance, including mortgage insurance.[20] The risks a national bank assumes in reinsuring mortgage insurance in the manner proposed by the Bank are essentially the same type as the risks associated with the permissible activities of underwriting, servicing, participating in and reinsuring mortgage loans. Through the proposed reinsurance activities, the Subsidiary will assume credit risks in mortgage loans. These Subsidiary risks are similar to risks that would be incurred by the Bank in the purchase of a participation interest in mortgage loans made by a third party, or incurred by the Bank in the acquisition of servicing rights to a portfolio of mortgage loans. These risks also are similar to risks assumed when reinsuring the Bank's and its affiliates mortgage loans.

C. Incidental To the Business of Banking Analysis

Even if the Bank's proposal were not viewed as part of the business of banking, the proposal would clearly qualify as incidental to the business of banking. In *VALIC*, the Supreme Court expressly held that the "business of banking" is not limited to the enumerated powers in 12 U.S.C. § 24(Seventh), but encompasses more broadly activities that are part of the business of banking.[21] The *VALIC* decision further established that banks may engage in activities that are incidental to the enumerated powers as well as the broader "business of banking."

Prior to *VALIC*, the standard that was often considered in determining whether an activity was incidental to banking was the one advanced by the First Circuit Court of Appeals in *Arnold Tours, Inc. v. Camp*, 472 F.2d 427 (1st Cir. 1972) ("*Arnold Tours*"). The *Arnold Tours* standard defined an incidental power as one that is "convenient or useful in connection with

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[20] *See* the Mortgage Reinsurance Approval Letters**.**

[21] *VALIC* at 258, n.2.

the performance of one of the bank's established activities pursuant to its ***express*** powers under the National Bank Act."[22] Even prior to *VALIC*, the *Arnold Tours* formula represented the narrow interpretation of the "incidental powers" provision of the National Bank Act.[23] The *VALIC* decision, however, has established that the *Arnold Tours* formula provides that an incidental power includes one that is convenient and useful to the "business of banking," as well as a power incidental to the express powers specifically enumerated in 12 U.S.C. § 24(Seventh).

The activity the Bank proposes would qualify as incidental to the business of banking under the *Arnold Tours* standard, because the proposed activity is "convenient" and "useful" to the Bank's mortgage banking business. It will enable the Bank to assume mortgage credit risk and receive a return therefrom in a new way.[24] Currently, the Bank can engage in the underwriting and assumption of credit risk either by originating mortgage loans, purchasing them from correspondents or other lenders, or purchasing participation interests in pools of mortgage loans - activities authorized under 12 U.S.C. § 24(Seventh). Moreover, the OCC has previously concluded that the Bank can assume mortgage credit risk by reinsuring a portion of the mortgage insurance on loans originated or purchased by the Bank or the Bank's lending affiliates.[25]

Reinsuring the mortgage insurance on serviced loans is another mechanism for engaging in the business of assuming mortgage credit risk. The proposed activities will provide the Bank with flexibility by enabling the Bank to further diversify its mortgage banking activities by adding a new activity to the origination and acquisition of mortgage loans as a source of revenue. This flexibility is convenient and useful to the Bank in determining how to structure its mortgage banking business in the most efficient and profitable manner.

The proposed activities also are incidental to mortgage banking activities because they enable the Bank to optimize the use of its existing credit staff and credit expertise to generate additional revenues through activities that support and enhance the Bank's mortgage banking business. The activities also enable the Bank to better manage its credit portfolio.

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[22] *Arnold Tours* at 432 (emphasis added).

[23] Interpretive Letter 494 (December 20, 1989), *reprinted in* [1989-1990 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,083 (December 20, 1989).

[24] *Arnold Tours*. *See also*, *Franklin National Bank of Franklin Square v. New York*, 347 U.S. 373 (1954) (power to advertise bank services); and *Auten v. United States Nat'l Bank*, 174 U.S. 125 (1899) (power to borrow money). In these cases the courts' holdings relied on whether the activity was "useful."

[25] *See* Corporate Decision No. 98-10 (January 28, 1998).

In connection with reviewing the scope of national banks' incidental powers authority, the courts have also determined that, within reasonable limits, certain activities can be incidental to banking when those activities enable a bank to realize gain or avoid loss from activities that are part of or necessary to its banking business.[26] The general conclusion reached by the courts, i.e., that activities that enable a bank to realize gain or avoid loss from activities that are part of or necessary to its banking business are incidental activities to banking, is directly applicable to the Bank's proposal. Here, the Bank will realize additional gain on the servicing rights the Bank already carries as an asset. The Bank already conducts credit reviews in connection with servicing mortgage loans. Through the proposed reinsurance activities, the Bank may generate additional income from those credit activities, thereby realizing a gain or revenue in connection with an asset it holds. In leveraging an existing asset (mortgage servicing rights) to take advantage of the financial opportunity presented by the asset, the Bank would be optimizing its mortgage banking capacities by using its existing mortgage loan underwriting and risk management capabilities in a cost effective manner.

CONCLUSION

Based upon the foregoing facts and analysis, and the representations and commitments made by the Bank in connection with the Bank's request, we have concluded that the Subsidiary may reinsure mortgage insurance for serviced loans, in the manner described in this letter.

Sincerely,

/s/

Raymond Natter
Acting Chief Counsel

[26] *See generally*, *Morris v. Third Nat'l Bank*, 142 F. 25 (8th Cir. 1905), *cert. denied*, 201 U.S. 649 (1906); *Birdsell Mfg. Co. v. Anderson*, 104 F.2d 340 (6th Cir. 1939); *Bailey v. Babcock*, 241 F. 501 (W.D. Pa. 1915); *Cooper v. Hill*, 94 F. 582 (8th Cir. 1899); *Cockrill v. Abeles*, 86 F. 505 (8th Cir. 1898); *National Bank v. Case*, 99 U.S. 628 (1879); *First Nat'l Bank v. National Exchange Bank*, 92 U.S. 122 (1875).